



Staff Report

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BELMONT REGARDING TWIN PINES FENCE AND COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 33445 AND RELATED CEQA FINDINGS

Honorable Chair and Board Members:

Summary

The Twin Pines Fence Committee had requested and the Agency Board agreed that the Agency pay \$ 44,000 for the cost of construction, including a contingency, of a replacement fence in front of Twin Pines Park (the "Twin Pines Fence"). Before the Agency can pay for the replacement of the Twin Pines Fence, it must comply with Health and Safety Code Section 33445, which requires the Agency to make the following findings with factual support: (1) the public improvements are of benefit to the project area or the immediate neighborhood of the project area; (2) no other reasonable means of financing such public improvements are available to the community; and (3) the Agency's contribution to the cost of the public improvement or facility will assist in elimination of one or more blighting conditions in the project area. Further, the court case of *Dave Meaney v. Sacramento Housing and Redevelopment Agency* (13 Cal.App. 4th 566, 1993) has interpreted Section 33445 to mean that the City Council, as the owner of the park, must also make the finding that no other reasonable means of financing the Twin Pines Fence are available. That action has been included in a companion report. Such findings with factual support are made in this report and the accompanying resolution.

Background

On October 9, 2007 by Resolution Number 460, the Board approved City Contract Number 487, the Twin Pines Fence Replacement Project plans and specifications, and authorized bidding to begin on the project. The cost estimate for the Twin Pines Fence is Forty Thousand Dollars (\$40,000) with a Four Thousand Dollar (\$4,000) contingency. The Twin Pines Fence will replace approximately 750 feet of existing fence with a four foot high redwood fence near the pedestrian park entrance by South Road. The fence will be designed with a pergola, which will be funded by the Belmont Park Boosters.

Discussion

Before an Agency may expend money for public improvements, it must make the following findings with factual support: (1) the public improvements are of benefit to the project area or the immediate neighborhood of the project area; (2) no other reasonable means of financing such public improvements are available to the community; and (3) the agency's contribution to the cost of the public improvement or facility will assist in elimination of one or more blighting conditions in the project area. These findings are easily met as established below.

1. Facts Supporting the Finding That the Twin Pines Fence is of Benefit to the Project Area. The Twin Pines Fence will benefit the Project Area by replacing a dilapidated fence. The fence is needed for aesthetic reasons and to provide safety to park users and pedestrians. The improvement and rehabilitation of existing structures and the conservation and protection of the natural areas that contribute to the beauty and character of the Project Area are listed as goals of the 1991 Amended and Restated Redevelopment Plan. The replacement of the Twin Pines Fence will help achieve these goals by preserving the Twin Pines Park and protecting residents who use the park as well as pedestrians walking near the park.

2. Facts Supporting the Finding That There Are No Other Reasonable Means of Financing the Twin Pines Fence. There are no reasonable means available to the community, including the City of Belmont (the "City") and the private sector, to fund the replacement of the Twin Pines Fence other than the proposed expenditure of the Agency's tax increment revenue out of its general tax increment funds. Because of the City's need to provide essential public health and safety services and reductions in available revenue resulting from the State's redirection of property taxes from cities and counties to schools, the City has a limited capital improvement fund and that fund is committed to other critical City projects. As a result, the City does not have funds available to pay for the Twin Pines Fence. In addition, Proposition 218 and other legal limits on the City's ability to raise revenue, make it extremely difficult or impossible to impose a tax or fee assessment on private property owners to pay for the Twin Pines Fence. While replacing the Twin Pines Fence will benefit the neighborhood in general by eliminating a blighting condition, no properties will be benefited to such a degree or in such a direct fashion as would allow the imposition of a property-based fee, assessment, special tax or other public exaction consistent with the applicable legal standards for such imposition set forth in the recently approved Proposition 218. Although the Belmont Park Boosters are paying for the Pergola, this contribution is the maximum financial contribution the Park Booster can make to the Twin Pines Fence, and there are no other private funds available.

3. Facts Supporting Finding That Funding the Twin Pines Fence Will Assist In Eliminating One or More Blighting Conditions in the Project Area. The existing fence is dilapidated and an eye sore and causes visual blight. By replacing the fence, this visual blight will be eliminated and the open space of the park will be preserved. Further, the existing fence is a substandard public infrastructure.

4. Facts Supporting Finding That Funding the Twin Pines Fence Is Consistent With the Agency's Implementation Plan. The Agency's Implementation Plan expressly provides for the construction and improvements of Twin Pines Park.

General Plan/Vision Statement

Distinctive Community Character

- Its small-town ambience sets it apart as a tranquil, safe and desirable place to live.

Natural Beauty

- Our natural surroundings inspire us to play, create, and contemplate.
- Our actions today preserve and enhance Belmont's beauty to make it even lovelier for our grandchildren.

Fiscal Impact

The cost to the Agency will be \$44,000. The cost to the City will be zero. Adequate funding has been allocated to this project and exists in the Belmont Redevelopment Agency FY 2008 Budget, RDA Capital Improvement Fund, Project Account 351-4610-9602-9030.

Public Contact

The publication and posting of the meeting agendas.

Recommendation

The Agency should pass the attached Resolution of the Belmont Redevelopment Agency (Twin Pines Fence, Health & Safety Code Section 33445 and Related CEQA findings). As a companion action, the City Council should pass a similar resolution.

Alternatives

1. Take no action.
2. Make recommendation for alternative action.

Attachments

- A. Resolution of the Belmont Redevelopment Agency (Twin Pines Fence, Health & Safety Code Section 33445 and Related CEQA findings)

Respectfully submitted,

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REDEVELOPMENT AGENCY RESOLUTION NO. ____

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BELMONT
REGARDING TWIN PINES FENCE AND COMPLIANCE WITH HEALTH & SAFETY
CODE SECTION 33445 AND RELATED CEQA FINDINGS**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Belmont (the "City") has adopted and the Belmont Redevelopment Agency (the "Agency") is responsible for implementing the Los Costanos Community Development Plan, adopted by Ordinance No. 692 on November 24, 1981, as amended by Ordinance No. 849 on September 10, 1991, Ordinance No. 887 on November 8, 1994, and Ordinance No. 1000 on May 11, 2004, and as may be further amended from time to time (the "Redevelopment Plan"); and

WHEREAS, to assist in implementing the Redevelopment Plan, the Agency, by resolution, adopted on September 11, 2007 a five-year implementation plan (the "Implementation Plan") pursuant to Section 33490 of the Redevelopment Law; and

WHEREAS, in furtherance of the Redevelopment Plan and the Implementation Plan, the Agency desires to provide financial assistance to replace the fence that runs along Ralston Avenue in front of Twin Pines Park near South Road (the "Twin Pines Fence"); and

WHEREAS, in considering approval of this Resolution, the Agency and the City Council have complied with the requirements of the California Environmental Quality Act ("CEQA") in the manner found and determined below; and

WHEREAS, the following additional materials (collectively, the "Supporting Documents") have been presented to and considered by the City Council in support of the findings and approvals set forth in this Resolution: (1) the staff report of January 8, 2008 accompanying this Resolution; and (2) the Notice of Exemption (as defined below). The Supporting Documents are hereby incorporated by reference in this Resolution and, together with the above recitals (the "Recitals"), form the evidentiary basis and establish the analytical route for reaching the ultimate findings and conclusions contained in this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Agency hereby finds that the above Recitals are true and correct and have served, together with the Supporting Documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the Agency hereby finds and determines that the approval of this Resolution and funding of the replacement of the Twin Pines Fence are categorically exempt from the requirements of CEQA pursuant to 14 California Code of Regulations Section 15301 (i)(4) (in that the existing fence will be demolished and removed), and 14 California Code of Regulations Section 15302 (in that the existing fence will be replaced), and 14 California Code of Regulations Section 15303 (e) (in that a new fence will be constructed).

BE IT FURTHER RESOLVED that, based on the foregoing CEQA considerations, Agency staff is authorized and directed to file the appropriate notice of exemption documents pursuant to CEQA in connection with the actions and approvals set forth in this Resolution ("Notice of Exemption").

BE IT FURTHER RESOLVED that, based on the information and analysis contained in the Recitals and the Supporting Documents, and in accordance with Section 33445 of the Redevelopment Law, the City Council hereby finds that: (1) the Twin Pines Fence is of benefit to the Project Area (as more fully identified and described in the Supporting Documents); (2) there is no other reasonable means of financing the Twin Pines Fence available to the community, including the City, the Agency, other public entities and the private sector; and (3) payment of the funds for the cost of the Twin Pines Fence will assist in the elimination of one or more blighting conditions inside the Project Area (as more fully identified and described in the Supporting Documents), and is consistent with the Agency's Implementation Plan.

BE IT FURTHER RESOLVED that the Agency hereby approves the funding of the Twin Pines Fence. The foregoing approval and authorization is conditioned on the making by the City of the finding required under Section 33445(a)(2) of the Redevelopment Law as interpreted by the court case of Dave Meaney v. Sacramento Housing and Redevelopment Agency (13 Cal.App. 4th 566, 1993) that there is no other reasonable means of financing the Twin Pines Fence.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Belmont Redevelopment Agency at a special meeting thereof held on January 22, 2008 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Redevelopment Agency

APPROVED:

Chair, Redevelopment Agency